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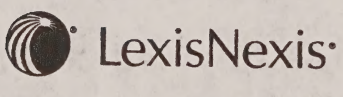

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User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

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PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal 2nd
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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December 2020 LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 51. WATERS, WATER RESOURCES, WATER DISTRICTS, DRAINAGE, AND FLOOD CONTROL

PEARL RIVER BASIN DEVELOPMENT DISTRICT; DISSOLUTION.

SEC.

51-11-101. Dissolution; Department of Finance and Administration to be agent-in-fact for district; settlement of outstanding operating accounts; contracts with former employees; disposal of district personalty or equipment.

51-11-103. Transfer of real property to county in which property is located; receiving county's assumption of duties and obligations appurtenant to property; finding that property is surplus; liability for financial obligations occurring or accruing before dissolution continues after dissolution.

51-11-105. Contingent continuation of existing Lower Pearl River Restoration Project agreements; funding of necessary maintenance activities; Lower Pearl River Restoration Trust Fund.

51-11-107. Final close-out audit of district accounts.

MISSISSIPPI CODE
1972
ANNOTATED

VOLUME TWELVE A

TITLE 51.

WATERS, WATER RESOURCES, WATER DISTRICTS, DRAINAGE, AND FLOOD CONTROL

Chapter 5.	Subsurface Waters; Well Drillers.	51-5-1
Chapter 11.	Pearl River Basin Development District.	51-11-1
Chapter 35.	Flood Control.	51-35-1
Chapter 37.	Watershed Districts.	51-37-1

CHAPTER 1.

NAVIGABLE WATERS

§ 51-1-4. What constitutes public waterways; rights thereon; prohibited activities; penalties.

JUDICIAL DECISIONS

1. In general.

Circuit court improperly ruled for a family in their action against the Mississippi Department of Wildlife, Fisheries, and Parks (MDWFP) because it erroneously applied the legal standard for reckless disregard under the Mississippi Torts Claim Act; the river constituted a public Mississippi waterway, and the MDWFP possessed both the authority to regulate the boating traffic on the river and the discretion to do so in a safe manner. Miss. Dep't of Wildlife, Fisheries, & Parks v. Webb, 248 So. 3d 823, 2017 Miss. App. LEXIS 217 (Miss. Ct. App. 2017), rev'd, 248 So. 3d 772, 2018 Miss. LEXIS 127 (Miss. 2018).

CHAPTER 5.

SUBSURFACE WATERS; WELL DRILLERS

Sec.

51-5-3.	Qualifications for license.
51-5-15.	Repealed.

§ 51-5-3. Qualifications for license.

In order to be licensed as a water well contractor in the State of Mississippi, the applicant must be qualified as set out below:

(a) Be at least twenty-one (21) years of age;

(b) Be of good moral character;

(c) Demonstrate to the satisfaction of the commission a reasonable knowledge of this chapter and the rules and regulations adopted by the commission under the provisions of this chapter;

(d) Possess the necessary drilling equipment, or present to the commission sufficient evidence to show that he has access to the use of such equipment at any time he needs it; and

(e) Have not less than three (3) years' experience in the work for which he is applying for a license.

HISTORY: Codes, 1942, § 5956-32; Laws, 1966, ch. 269, § 2; Laws, 1985, ch. 459, § 31; Laws, 2010, ch. 411, § 2, eff from and after July 1, 2010; Laws, 2020, ch. 367, § 1, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment deleted former (2), which read: "Each applicant shall be required to present to the examining committee three (3) notarized affidavits from licensed water well contractors showing that such applicant has the necessary qualifications and experience to meet the above-stated standards."

§ 51-5-15. Repealed.

Repealed by Laws, 2018, ch. 395, § 10, eff from and after July 1, 2018.

§ 51-5-15. [Codes, 1942, § 5956-38; Laws, 1966, ch. 269, § 8; Laws, 1978, ch. 371, § 2, eff from and after passage (approved March 15, 1978).]

Editor's Notes — Former § 51-5-15 authorized the Board of Water Commissioners to appoint an advisory committee to make recommendations for the regulation and control of water well drillers, and prescribed the committee composition and terms of appointment.

CHAPTER 11.

PEARL RIVER BASIN DEVELOPMENT DISTRICT

Pearl River Basin Development District; creation [Repealed]. 51-11-1
Pearl River Basin Development District; dissolution. 51-11-101

PEARL RIVER BASIN DEVELOPMENT DISTRICT; CREATION [REPEALED]

Sec.
51-11-1 through 51-11-87. Repealed.

§§ 51-11-1 through 51-11-87. Repealed.

Repealed by Laws, 2018, ch. 356, § 5, eff from and after July 1, 2018.

§ 51-11-1. [Codes, 1942, § 5956-251; Laws, 1964, ch. 255, § 1, eff from and after passage (approved June 1, 1964).]

§ 51-11-3. [Codes, 1942, § 5956-252; Laws, 1964, ch. 255, § 2, eff from and after passage (approved June 1, 1964).]

§ 51-11-5. [Codes, 1942, § 5956-253; Laws, 1964, ch. 255, § 3; Laws, 1981, ch. 402, § 2; Laws, 1984, ch. 426, § 1; Laws, 2000, ch. 516, § 92; Laws, 2004, ch. 403, § 1, eff from and after July 1, 2004.]

§ 51-11-7. [Codes, 1942, § 5956-254; Laws, 1964, 1st Ex. Sess., ch. 19; Laws, 1966, ch. 272, § 1; Laws, 1997, ch. 343, § 1, eff from and after passage (approved March 17, 1997).]

§ 51-11-9. [Codes, 1942, § 5956-255; Laws, 1964, ch. 255, § 5; Laws, 2000, ch. 516, § 93, eff from and after passage (approved Apr. 30, 2000).]

§ 51-11-11. [Codes, 1942, § 5956-257; Laws, 1964, ch. 255, § 7; Laws, 1968, ch. 264, § 2; Laws, 1984, ch. 426, § 2, eff from and after July 1, 1984.]

§ 51-11-13. [Codes, 1942, § 5956-258; Laws, 1964, ch. 255, § 8; Laws, 1984, ch. 426, § 3, eff from and after July 1, 1984; Laws, 1993, ch. 615, § 8; Laws, 1995, ch. 616, § 5, eff from and after July 1, 1995; Laws, 1998, ch. 515, § 18, eff from and after July 1, 1998.]

§ 51-11-15. [Codes, 1942, § 5956-259; Laws, 1964, ch. 255, § 9; Laws, 1984, ch. 426, § 4, eff from and after July 1, 1984.]

§ 51-11-17. [Codes, 1942, § 5956-260; Laws, 1964, ch. 255, § 10, eff from and after passage (approved June 1, 1964).]

§ 51-11-19. [Codes, 1942, § 5956-261; Laws, 1964, ch. 255, § 11; Laws, 2000, ch. 516, § 94, eff from and after passage (approved Apr. 30, 2000).]

§ 51-11-21. [Codes, 1942, § 5956-269; Laws, 1968, ch. 264, § 3; Laws, 1984, ch. 426, § 5, eff from and after July 1, 1984.]

§ 51-11-23. [Codes, 1942, § 5956-270; Laws, 1968, ch. 264, § 4, eff from and after passage (approved July 18, 1968).]

§ 51-11-25. [Codes, 1942, § 5956-271; Laws, 1968, ch. 264, § 5; Laws, 1984, ch. 426, § 6, eff from and after July 1, 1984.]

§ 51-11-27. [Codes, 1942, § 5956-272; Laws, 1968, ch. 264, § 6, eff from and after passage (approved July 18, 1968).]

§ 51-11-29. [Codes, 1942, § 5956-273; Laws, 1968, ch. 264, § 7, eff from and after passage (approved July 18, 1968).]

§ 51-11-31. [Codes, 1942, § 5956-256; Laws, 1964, ch. 255, § 6; Laws, 1968, ch. 264, § 1; Laws, 1986, ch. 400, § 32, eff from and after October 1, 1986.]

§ 51-11-33. [Codes, 1942, § 5956-256; Laws, 1964, ch. 255, § 6; Laws, 1968, ch. 264, § 1, eff from and after passage (approved July 18, 1968).]

§ 51-11-35. [Codes, 1942, § 5956-256; Laws, 1964, ch. 255, § 6; Laws, 1968, ch. 264, § 1; Laws, 1986, ch. 400, § 33, eff from and after October 1, 1986.]

§ 51-11-37. [Codes, 1942, § 5956-256; Laws, 1964, ch. 255, § 6; Laws, 1968, ch. 264, § 1, eff from and after passage (approved July 18, 1968).]

§ 51-11-39. [Codes, 1942, § 5956-262; Laws, 1964, ch. 255, § 12; Laws, 1988, ch. 473, § 12, eff from and after December 1, 1988.]

§ 51-11-41. [Codes, 1942, § 5956-263; Laws, 1964, ch. 255, § 13, eff from and after passage (approved June 1, 1964).]

§ 51-11-43. [Codes, 1942, § 5956-264; Laws, 1964, ch. 255, § 14; Laws, 1968, ch. 264, § 8; Laws, 1984, ch. 426, § 7, eff from and after July 1, 1984.]

§ 51-11-45. [Codes, 1942, § 5956-265; Laws, 1964, ch. 255, § 15, eff from and after passage (approved June 1, 1964).]

§ 51-11-47. [Codes, 1942, § 5956-266; Laws, 1964, ch. 255, § 16, eff from and after passage (approved June 1, 1964).]

§ 51-11-49. [Codes, 1942, § 5956-274; Laws, 1968, ch. 264, § 9, eff from and after passage (approved July 18, 1968).]

§ 51-11-51. [Codes, 1942, § 5956-267; Laws, 1964, ch. 255, § 17, eff from and after passage (approved June 1, 1964).]

§ 51-11-52. [Laws, 1984, ch. 426, § 8, eff from and after July 1, 1984.]

§ 51-11-53. [Laws, 1998, ch. 515, § 1; Laws, 2001, ch. 577, § 1, eff from and after Apr. 7, 2001.]

§ 51-11-55. [Laws, 1998, ch. 515, § 2, eff from and after July 1, 1998.]

§ 51-11-57. [Laws, 1998, ch. 515, § 3; Laws, 2001, ch. 577, § 2, eff from and after Apr. 7, 2001.]

§ 51-11-59. [Laws, 1998, ch. 515, § 4; Laws, 2001, ch. 577, § 3, eff from and after Apr. 7, 2001.]

§ 51-11-61. [Laws, 1998, ch. 515, § 5, eff from and after July 1, 1998.]

§ 51-11-63. [Laws, 1998, ch. 515, § 6, eff from and after July 1, 1998.]

§ 51-11-65. [Laws, 1998, ch. 515, § 7, eff from and after July 1, 1998.]

§ 51-11-67. [Laws, 1998, ch. 515, § 8; Laws, 2001, ch. 577, § 4, eff from and after March 6, 2002 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section).]

§ 51-11-69. [Laws, 1998, ch. 515, § 9, eff from and after July 1, 1998.]

§ 51-11-71. [Laws, 1998, ch. 515, § 10, eff from and after July 1, 1998.]

§ 51-11-73. [Laws, 1998, ch. 515, § 11; Laws, 2001, ch. 577, § 5, eff from and after Apr. 7, 2001.]

§ 51-11-75. [Laws, 1998, ch. 515, § 12, eff from and after July 1, 1998.]

§ 51-11-77. [Laws, 1998, ch. 515, § 13, eff from and after July 1, 1998.]

§ 51-11-79. [Laws, 1998, ch. 515, § 14, eff from and after July 1, 1998.]

§ 51-11-81. [Laws, 1998, ch. 515, § 15, eff from and after July 1, 1998.]

§ 51-11-83. [Laws, 1998, ch. 515, § 16, eff from and after July 1, 1998.]

§ 51-11-85. [Laws, 1998, ch. 515, § 17, eff from and after July 1, 1998.]

§ 51-11-87 [Laws, 2001, ch. 577, § 6, eff from and after Apr. 7, 2001.]

Editor's Notes — Former § 51-11-1 provided legislative intent and declaration of policy regarding the need for the creation of the Pearl River Basin Development District.

Former § 51-11-3 provided the general authority to organize the Pearl River Basing Development District.

Former § 51-11-5 related to the board of directors of the Pearl River Basin Development District.

Former § 51-11-7 provided a list of the counties that could become members of the district.

Former § 51-11-9 created the district.

Former § 51-11-11 related to the powers of the district.

Former § 51-11-13 related to additional powers of the district.

Former § 51-11-15 related to construction contracts.

Former § 51-11-17 authorized the district to establish park and recreation facilities.

Former § 51-11-19 related to the establishment of rules and regulations.

Former § 51-11-21 authorized the board of directors to issue bonds.

Former § 51-11-23 provided details of the bonds authorized under former § 51-11-21.

Former § 51-11-25 limited the dollar amount of bonds issued under §§ 51-11-1 through 51-11-51.

Former § 51-11-27 related to the validation of the bonds issued under the chapter.

Former § 51-11-29 provided that bonds provided for in § 51-11-21 could be further secured by a trust agreement.

Former § 51-11-31 required member counties to pay to the district an annual sum on all taxable property within the county.

Former § 51-11-33 required member counties to pay to the district two mills of all ad valorem taxes.

Former § 51-11-35 related to additional funds for planning, undertaking, construction, completion, operation and maintenance of work that was of special benefit to and situated within a member county.

Former § 51-11-37 related to payment of preliminary expenses of the district.

Former § 51-11-39 related to the designation of one or more qualified depositories to serve as depositories for district funds.

Former § 51-11-41 related to agreements relative to federal highways.

Former § 51-11-43 authorized the district to act jointly with other state or federal governmental agencies.

Former § 51-11-45 exempted the district and its bonds from taxation.

Former § 51-11-47 provided that overflow and inundation of sixteenth section lands or in lieu lands did not constitute waste.

Former § 51-11-49 provided that the district law was controlling over any other law.

Former § 51-11-51 was a savings clause.

Former § 51-11-52 related to flood control projects.

Former § 51-11-53 provided definitions of terms used in §§ 51-11-1 through 51-11-85.

Former § 51-11-55 created a flood control district.

Former § 51-11-57 related to the creation and composition of the board of directors and terms of office of members.

Former § 51-11-59 provided the powers and duties of flood control districts.

Former § 51-11-61 authorized the district to obtain appropriation permits.

Former § 51-11-63 related to the issuance and security of bonds issued by district.

Former § 51-11-65 related to the declaration and publication of intention to issue bonds.

Former § 51-11-67 related to bond elections.

Former § 51-11-69 related to bond election results and certification and the timing of the issuance of bonds after a favorable vote.

Former § 51-11-71 provided that all bonds issued pursuant to §§ 51-11-53 through 51-11-85 would be negotiable instruments and would have to meet certain requirements enumerated in the section.

Former § 51-11-73 provided for annual levy of a special tax on taxable property within flood district to provide funds for payment of principal and interest in connection with bonds.

Former § 51-11-75 related to the validation of bonds, use of state's bond attorney and notice requirements for validation proceedings.

Former § 51-11-77 declared district bonds to be legal and authorized investments of public funds.

Former § 51-11-79 exempted the district from taxes or assessments on the project and related facilities.

Former § 51-11-81 related to the maximum load period, renewals and extensions,

sources of loans and the repayment of advances.

Former § 51-11-83 related to the negotiation and contracting powers of the board of directors.

Former § 51-11-85 required the district to cooperate and coordinate with political subdivisions in performance of the purposes and services authorized by §§ 51-11-53 through 51-11-85.

Former § 51-11-87 authorized board of supervisors of member county to elect to withdraw from district.

PEARL RIVER BASIN DEVELOPMENT DISTRICT; DISSOLUTION

Sec.

51-11-101. Dissolution; Department of Finance and Administration to be agent-in-fact for district; settlement of outstanding operating accounts; contracts with former employees; disposal of district personalty or equipment.

51-11-103. Transfer of real property to county in which property is located; receiving county's assumption of duties and obligations appurtenant to property; finding that property is surplus; liability for financial obligations occurring or accruing before dissolution continues after dissolution.

51-11-105. Contingent continuation of existing Lower Pearl River Restoration Project agreements; funding of necessary maintenance activities; Lower Pearl River Restoration Trust Fund.

51-11-107. Final close-out audit of district accounts.

§ 51-11-101. Dissolution; Department of Finance and Administration to be agent-in-fact for district; settlement of outstanding operating accounts; contracts with former employees; disposal of district personalty or equipment.

(1) On July 1, 2018, the Pearl River Basin Development District (the "district") is dissolved, and all statutory authority granted to the district under Sections 51-11-1 through 51-11-87 is repealed as provided in Section 5 of Chapter 356, Laws of 2018.

(2) Through June 30, 2018, the district is authorized to continue to conduct such business as is necessary to settle any accounts and/or financial obligations of the district.

(3) From and after July 1, 2018, the Department of Finance and Administration (the "department") shall be the agent-in-fact for the district for all purposes, and notwithstanding the repeal of the statutory authority of the district, the department shall have all of the authority that was granted to the district under Sections 51-11-1 through 51-11-87 as they existed on June 30, 2018, to the extent necessary and for as long as necessary for the department to complete the dissolution of the district and ensure that all obligations of the district are met.

(4) From and after July 1, 2018, the department is authorized to settle any outstanding operating accounts of the district, and the department shall

have the use of all funds that were available to the district before July 1, 2018, in the State Treasury or in any approved depository, together with any net proceeds derived from the sale of any property of the district, in order to fulfill the district's outstanding financial obligations. Those funds may be expended by the department upon appropriation by the Legislature, and shall not lapse into the State General Fund at the end of any fiscal year. However, if there are any of those funds remaining after all expenditures relating to the dissolution of the district have been made, the department shall deposit the remaining funds into the State General Fund. The department shall maintain accurate records of all accounts and disbursals of those funds and shall periodically share those records with the Legislative Budget Office and the Office of the State Auditor as a part of any close-out audit.

(5) From any funds that were formerly available to the district as described in subsection (4) of this section or any funds appropriated to the department specifically for this purpose, the department is authorized, in any fiscal year, to engage on a contract basis the services of any former employee or contract employee of the district to the extent that the State Fiscal Officer deems such a contract to be beneficial to the administration of dissolution of the district and the performance of the department's obligations under Sections 51-11-101 through 51-11-107.

(6) From and after July 1, 2018, the department is authorized to dispose of any personalty or equipment of the district as surplus property or through inventory transfer to another public entity, and is authorized to settle any existing lease or leases of the district, either by canceling, assigning or subleasing the same. For the vehicles of the district, the department may transfer any of the vehicles to other state agencies without any payment being required from the agency, or may sell any of the vehicles for such price as determined by the State Fiscal Officer, and shall deposit all funds received from the sale of the vehicles into the funds in the State Treasury that were formerly available to the district, as described in subsection (4) of this section.

HISTORY: Laws, 2018, ch. 356, § 1, eff from and after passage (approved March 15, 2018).

§ 51-11-103. Transfer of real property to county in which property is located; receiving county's assumption of duties and obligations appurtenant to property; finding that property is surplus; liability for financial obligations occurring or accruing before dissolution continues after dissolution.

(1) Through June 30, 2018, the district, and from and after July 1, 2018, the department, is authorized to transfer any real property to which the district currently holds or formerly held title, specifically including, but not limited to, any water parks or similar facilities owned by the district, to the county or municipality in which the real property lies. As consideration for the

property being received, the county or municipality must agree to accept the transfer and any duties and obligations appurtenant to the property. Any equipment associated with a water park or other real property of the district that is transferred under this subsection shall also be transferred to the county or municipality that accepts the transfer of the real property.

(2) Any county or municipality accepting the transfer of a water park or other real property from the district or the department is authorized to assume any duties and obligations appurtenant to the property as formerly exercised by the district, including, but not limited to, the obligation to operate and maintain those properties out of the revenues of the county or municipality, the obligation to protect the property with either liability insurance or through the Mississippi Tort Claims Fund, and the assumption and/or transfer of any obligations as a recipient or sponsor of any state or federal grant or grant funds.

(3) Any county that chooses not to accept the transfer of any real property currently or formerly owned by the district, after determining that no municipality in the county wishes to have the property transferred to it, may make a finding that the property would be surplus to the needs of the county, by proper action and order of the board of supervisors of the county. Upon the making of a finding that a property would be surplus to the needs of the county, the Secretary of State may institute proceedings to sell the surplus property in accordance with Section 29-1-1, in accordance with the process described in Section 29-1-37, or in accordance with other applicable statutes. The Secretary of State may deduct the costs of effecting the sale of the surplus property from the net proceeds of the sale before transferring the funds as authorized in Sections 51-11-101 through 51-11-107. Proceeds from the sale of any such property shall, where applicable, be used for the acquisition of additional properties by the state, acting by and through the Mississippi Department of Wildlife, Fisheries and Parks, to satisfy any obligations imposed by grants as to the nature and use of the property.

(4) The liability of a county for any financial obligations or indebtedness to the district occurring or accruing before the dissolution of the district, including, but not limited to, the responsibility for paying its portion of any district bonds and other contractual obligations, and making annual payments to the district as set forth in Section 51-11-31, shall continue in existence after the district is dissolved and shall be payable by the county to the department. The department is authorized to take such actions as necessary to collect any financial obligations of a county to the district that are still outstanding after the district is dissolved.

HISTORY: Laws, 2018, ch. 356, § 2, eff from and after passage (approved March 15, 2018).

§ 51-11-105. Contingent continuation of existing Lower Pearl River Restoration Project agreements; funding of necessary maintenance activities; Lower Pearl River Restoration Trust Fund.

The following provisions related to the Lower Pearl River Restoration Project ("project") are contingent upon the development of an agreement, or an amendment to the existing agreement, between the United States Army, Corps of Engineers ("USACOE"), the Mississippi Department of Environmental Quality ("MDEQ"), the Department of Wildlife, Fisheries and Parks ("DWFP") and the district, removing the district from the agreement, and possibly adding a new cooperating partner or partners and possibly removing the MDEQ and/or the DWFP from the agreement.

From and after July 1, 2018, the project, currently being managed as a joint effort of the USACOE, the MDEQ, the DWFP, and the district, shall continue as per existing agreements, which may be amended to reflect the dissolution of the district and its removal from those agreements. The obligations of the district under the current agreements for the project may be assumed by the MDEQ, or other entity, as the designated state entity for the continuing obligation of maintenance of the water control structures as set forth in the original agreements. The parties to the agreement may identify necessary maintenance activities needed to preserve the integrity of project structures and other ordinary maintenance activities as the parties may agree need to be performed. Funding to perform those maintenance activities shall come from the Lower Pearl trust account currently on deposit with a depository or depositories in the name of the Pearl River Basin Development District, which funds are a special fund set aside solely for the operation and maintenance of the project. From and after July 1, 2018, the parties to the agreement, may assume ownership, in trust, of those funds, and the funds shall be known as the "Lower Pearl River Restoration Trust Fund." Monies from this fund shall be a special fund set aside for the purpose(s) set forth in the amended or reformed agreement between the parties and shall not lapse into the State General Fund, and may not be expended for any purpose other than operation and maintenance activities under the purview of the project.

HISTORY: Laws, 2018, ch. 356, § 3, eff from and after passage (approved March 15, 2018).

§ 51-11-107. Final close-out audit of district accounts.

The State Auditor shall perform or have performed a final close-out audit of the accounts of the district. The close-out audit shall be in a form acceptable to the State Auditor and may be conducted in lieu of the usual annual audit of accounts, if the district had continued in existence. Costs of conducting the close-out audit may be defrayed from any funds formerly under the control of the district and currently under the control of the department.

HISTORY: Laws, 2018, ch. 356, § 4, eff from and after passage (approved March 15, 2018).

CHAPTER 35.
FLOOD CONTROL

Article 5. Urban Flood Control. 51-35-301

ARTICLE 5.
URBAN FLOOD CONTROL.

Sec.
51-35-333. Bonds payable from ad valorem taxation.

§ 51-35-333. Bonds payable from ad valorem taxation.

(1)(a) To provide funds for the payment of the principal of, interest on, and other charges in connection with bonds issued under the provisions of this article, to provide funds for the annual expenses of operations of the district, and to provide funds for carrying out any of the purposes of this article, the district is empowered to levy annually a special tax upon all the taxable property within such district on or before the first Monday of September of each year and shall certify the levy to the boards of supervisors of the various counties in the district. It shall be the duty of the boards of supervisors of each county to make the levy on each tract of land or other property in the district according to the assessed valuation thereof.

(b) The taxes shall be collected by the tax collectors of the respective counties in the district, who shall deposit them in such depository as shall be selected by the board of directors of the district. The tax collector shall receive a sum not greater than one-fifth of one percent (⅕ of 1%) of the amount collected for his services in making such collection, and the fee shall be paid into the county general fund. It shall be the duty of the board of directors to levy a tax sufficient to pay the bonds and the interest thereon as such bonds and interest become due, to pay for the annual expense of operation of the district, and to provide funds for carrying out any of the purposes of this article.

(2)(a) If the board of directors undertakes a flood and drainage control improvement project that the board determines will benefit only a portion of the district:

(i) The board of directors may levy a special improvement assessment that applies only to property in the district that is directly or indirectly benefited by the project to provide funds for the payment of costs related to the flood and drainage control improvement project, including the payment of costs related to the principal and interest on any bonds issued under this article for the project and any related expenses; and

(ii) The board of directors may levy a special improvement maintenance assessment that applies only to property in the district that is directly or indirectly benefited by the project to provide funds for the operation, maintenance and preservation of the project.

(b) Prior to levying an assessment under this subsection, the board of directors shall make a determination that the necessary approvals and authorizations are in place and that project-related activities are ready to commence.

(c) If an assessment is levied under this subsection, the board of directors shall annually determine, order and levy the annual installment of the total assessments. These assessments may be due and collected during each year that county taxes are due and collected, in which case the annual installment and levy shall be evidenced to and certified to the county tax assessor by the board of directors not later than the first Monday of September of each year. The assessments shall be entered by the assessor on the county tax rolls and shall be collected and enforced by the county tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. These assessments shall be a lien on the property against which assessed until paid and shall be collectible and enforceable in like manner as county property taxes. All statutes regulating the collection and enforcement of county property taxes shall apply to the enforcement and collection of the assessments levied under this subsection. The amount of the assessments under this subsection shall be determined by the board of directors and assessed by the board of directors upon such lands, which may be part or all of the lands within the district benefited by the project, apportioned between benefited lands in proportion to the benefits received by each tract of land.

(d) The tax collector shall be entitled to reasonable compensation for collecting the assessments which shall be not greater than one-fifth of one percent (⅕ of 1%) of the amount collected for his services in making such collection, and the fee shall be paid into the county general fund.

HISTORY: Codes, 1942, § 3665-18; Laws, 1962, ch. 226, § 18; Laws, 1968, ch. 361, § 3; Laws, 2017, ch. 379, § 1, eff from and after July 1, 2017.

Amendment Notes — The 2017 amendment designated the former first and second sentences of the section as (1)(a) and the former third through fifth sentences as (1)(b); added (2); and made minor stylistic changes.

CHAPTER 37.

WATERSHED DISTRICTS

Watershed Repair and Rehabilitation Cost-Share Program. 51-37-1

WATERSHED REPAIR AND REHABILITATION COST-SHARE PROGRAM

Sec.

51-37-3. Watershed Repair and Rehabilitation Cost-Share Program.

§ 51-37-3. Watershed Repair and Rehabilitation Cost-Share Program.

(1) There is created the Mississippi Watershed Repair and Rehabilitation Cost-Share Program to be administered by the Mississippi Soil and Water Conservation Commission ("commission") through the Soil and Water Cost-Share Program for the purpose of assisting local watershed districts in the repair, rehabilitation or removal of water impoundment structures constructed with financing from the United States of America under Public Law 534 and Public Law 566. For the purposes of this section, the term "watershed district" shall include any "watershed district, soil and water conservation district, drainage district, flood control district, or water management district authorized by the Mississippi Legislature which has the management responsibility for any Public Law 534 or Public Law 566 water impoundment structure."

(2) The Legislature may appropriate such sums as it may deem necessary to a special fund for the commission to be expended by them in accordance with this section. The commission is authorized to receive and expend any funds appropriated by the federal government for the purposes of this section. The commission is authorized to receive and expend proceeds from bonds issued under Sections 1 through 14 of House Bill No. 1783, 1998 Regular Session, Section 1 of Chapter 502, Laws of 2008, Section 17 of Chapter 530, Laws of 2014, and Section 15 of Chapter 454, Laws of 2019. Unexpended amounts remaining at the end of the fiscal year shall not lapse into the State General Fund.

(3) The commission shall:

(a) Establish rules and regulations for participation and assistance under this cost-share program consistent with the requirements of this section.

(b) Establish a priority list of the watershed structures for which cost-share assistance has been applied.

(c) Determine which structures shall be eligible for cost-share assistance.

(d) Establish maximum sums and cost-share rates which any eligible entity may receive for implementation of the cost-share assistance.

(e) Award cost-share assistance in accordance with the rules and regulations. The awarding of cost-share assistance may be in the form of direct payment to the watershed district or may be in the form of the commission's directly managing the repair, renovation or removal as agreed between the commission and the watershed district.

(4) Any watershed district must meet the following minimum criteria to be eligible for consideration for approval of cost-share assistance under this program:

(a) The water impoundment structure has been certified not to meet the technical standards established by the United States Department of Agriculture, Natural Resources Conservation Service, as a result of needed maintenance, structural defect, equipment failure or public access.

(b) A maintenance agreement has been reached with either the watershed district or the landowner upon which the structure is situated. Any impoundment structure where the watershed district is the maintainer shall have a new maintenance agreement which includes the concurrence and approval of the county board of supervisors or city governmental authority as guarantor of the performance of the watershed district.

(c) The local watershed district, county board of supervisors or landowner upon whose land the structure is located must agree to provide financial or in-kind match at the rate established by the commission.

(5) The impoundment structure may be situated on land owned by a private landowner or any state or federal governmental entity.

(6) Any county board of supervisors or municipal governmental authority, within whose boundaries a qualifying impoundment structure lies, wishing to participate in this program shall have the authority to expend public monies, personnel, and/or equipment on private property to repair, renovate or remove any impoundment structure authorized by the commission for participation in this program.

(7) This section is supplemental to any powers and authorities granted watershed districts, county boards of supervisors, or municipal governmental authorities and does not supersede existing law.

HISTORY: Laws, 1997, ch. 477, § 2; Laws, 2008, ch. 502, § 2; Laws, 2014, ch. 530, § 18, eff from and after July 1, 2014; Laws, 2019, ch. 454, § 16, eff from and after passage (approved April 12, 2019).

Amendment Notes — The 2019 amendment, effective April 12, 2019, in (2), inserted "and Section 15 of Chapter 454, Laws of 2019" and made a related change.

TITLE 53.

OIL, GAS, AND OTHER MINERALS

Chapter 1.	State Oil and Gas Board.	53-1-1
Chapter 3.	Development, Production and Distribution of Gas and Oil.	53-3-1
Chapter 11.	Mississippi Geologic Sequestration of Carbon Dioxide Act.	53-11-1

CHAPTER 1.

STATE OIL AND GAS BOARD

In General.	53-1-1
Administration Expense Tax.	53-1-71

IN GENERAL

Sec.
53-1-7. State supervisor.

§ 53-1-7. State supervisor.

The board shall appoint a State Oil and Gas Supervisor, herein called supervisor, who shall be a competent and qualified administrator and receive as compensation for his services an annual salary to be fixed by law. The supervisor shall be solely responsible for the administration of the offices of the State Oil and Gas Board and shall be charged with the duty of enforcing Sections 53-1-1 through 53-1-47, and Sections 53-3-3 through 53-3-165, and all rules, regulations and orders duly adopted by the board. The supervisor shall be ex officio secretary of the board and shall give bond, in such sum as the board may direct, with corporate surety to be approved by the board, conditioned that he will well and truly account for all funds coming into his hands as such secretary. He shall remit to the State Treasurer all monies collected by him as such secretary for deposit in trust for the use of the board in a special fund known as the Oil and Gas Conservation Fund to be expended as provided by law.

The supervisor shall devote his entire time to his official duties.

In addition, it shall be the supervisor's duty and responsibility to:

(a) Supervise and manage all personnel of the offices of the Oil and Gas Board.

(b) Formulate the duties and responsibilities of every staff employee in detail, including written job descriptions and written policies and procedures for performing staff tasks.

(c) Outline a detailed method of preparing, and devise a systematic procedure for the filing of reports by field inspectors.

(d) Formulate written policies and procedures for the effective and

efficient operation of the office, and present these policies and procedures to the board for promulgation.

(e) Supervise the provision of technical support and assistance to the board in its decision-making capacity.

HISTORY: Codes, 1942, §§ 6132-03, 6132-06; Laws, 1948, ch. 256, §§ 3a, 3d; Laws, 1950, ch. 220, § 1; Laws, 1982, ch. 485, § 4; Reenacted, Laws, 1990, ch. 357, § 3; Reenacted without change, Laws, 1991, ch. 340, § 4; Laws, 2016, ch. 459, § 39, eff from and after July 1, 2016; Laws, 2019, ch. 474, § 1, eff from and after passage (approved April 16, 2019).

Amendment Notes — The 2019 amendment, effective April 16, 2019, deleted the former last two paragraphs, which read: "From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

"From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section"; and made minor stylistic changes.

ADMINISTRATION EXPENSE TAX

Sec.

53-1-73. Charge imposed to pay for administration expenses.
53-1-77. Oil and gas conservation fund; use of excess funds to plug orphan oil or gas wells; emergency plugging fund; funding of agency expenses; deposit of monies into State General Fund [Subsection (8) repealed effective July 1, 2021].

§ 53-1-73. Charge imposed to pay for administration expenses.

For the purposes of paying the costs and expenses incurred in connection with the administration and enforcement of the oil and gas conservation laws of the State of Mississippi and of the rules, regulations and orders of the State Oil and Gas Board, there is levied and assessed against each barrel of oil produced in the State of Mississippi a charge not to exceed sixty (60) mills on each barrel of such oil sold, and against each one thousand (1,000) cubic feet of gas produced and sold a charge not to exceed six (6) mills on each one thousand (1,000) cubic feet of gas. The State Oil and Gas Board shall fix the amount of such charge in the first instances, and may, from time to time, change, reduce or increase the amount thereof, as in its judgment the charges against the fund may require, but the amounts fixed by the board shall not exceed the limits hereinabove prescribed; and it shall be the duty of the board to make collection of such assessments. All monies collected shall be used exclusively to pay the expenses and other costs in connection with the functioning of the State Oil and Gas Board and the administration of the oil and gas conservation laws of the State of Mississippi now in force or hereafter enacted and the rules, regulations and orders of the board.

HISTORY: Codes, 1942, § 6132-41; Laws, 1948, ch. 318, § 1; Laws, 1972, ch. 482,

§ 1; Laws, 1975, ch. 342; Laws, 1980, ch. 525; Laws, 1982, ch. 485, § 26; Laws, 1983, ch. 473; Reenacted and amended, Laws, 1990, ch. 357, § 26; Reenacted without change, Laws, 1991, ch. 340, § 26; Laws, 1997, ch. 543, § 1; Laws, 2007, ch. 363, § 3; Laws, 2009, ch. 443, § 5; Laws, 2016, ch. 459, § 40, eff from and after July 1, 2016; Laws, 2019, ch. 474, § 2, eff from and after passage (approved April 16, 2019).

Amendment Notes — The 2019 amendment, effective April 16, 2019, deleted the former last two paragraphs, which read: "From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

"From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section"; and made minor stylistic changes.

§ 53-1-77. Oil and gas conservation fund; use of excess funds to plug orphan oil or gas wells; emergency plugging fund; funding of agency expenses; deposit of monies into State General Fund [Subsection (8) repealed effective July 1, 2021].

(1) The State Oil and Gas Supervisor, as ex officio secretary of such board, shall remit to the State Treasurer all monies collected by reason of the assessments made and fixed under the provisions of Section 53-1-73, and the State Treasurer shall deposit all such monies in a special fund known as the "Oil and Gas Conservation Fund," which is continued in effect.

(2) All monies on deposit in the Oil and Gas Conservation Fund on April 10, 1948, and all monies hereafter deposited in such fund, shall be held in trust for the use of the board to pay the expenses and costs incurred in connection with the administration and enforcement of the oil and gas conservation laws of the State of Mississippi and the rules, regulations and orders of the State Oil and Gas Board issued thereunder. Disbursements shall be made from such fund only upon requisition of the State Oil and Gas Supervisor, as approved and allowed by the board, and which requisitions shall be supported by itemized statements thereto attached showing the purpose or purposes of such expenditures. Such requisitions shall be drawn upon the State Fiscal Officer, who shall issue a warrant upon the fund. Such warrants so issued shall be paid by the State Treasurer upon presentation.

(3) The State Oil and Gas Supervisor, as ex officio secretary of the Oil and Gas Board, shall submit, within ten (10) days, after the convening of each session of the Legislature, to the Legislature a detailed report of all receipts, expenditures and balance on hand, of funds coming to the Oil and Gas Board from any source whatsoever.

(4) In the event that at any particular time, the Oil and Gas Conservation Fund contains an amount greater than Two Hundred Thousand Dollars ($200,000.00) more than the current fiscal year's estimated budget, the amount of the excess may be used by the board and at the board's discretion, to plug any oil or gas well, including any Class II well, in the state that has

been determined by the board to represent an imminent threat to the environment and that has been determined by the board to be an "orphan" well.

(5) The board shall have the authority, in its discretion, to use whatever legal means available to it to attempt to collect any amounts so expended from any responsible party. Any amounts so collected shall be returned to the Oil and Gas Board's Emergency Plugging Fund created herein.

(6) Amounts of surplus in the Oil and Gas Conservation Fund of over Two Hundred Thousand Dollars ($200,000.00) shall be transferred to a separate special fund of the Oil and Gas Board to be known as the Emergency Plugging Fund, for the proper plugging of wells pursuant to this section. The supervisor shall have the authority, and it shall be his duty to transfer any amounts in the Emergency Plugging Fund back to the Oil and Gas Conservation Fund in the event and to the extent to which the Oil and Gas Conservation Fund should at any time contain less than a Two Hundred Thousand Dollars ($200,000.00) surplus.

(7) For purposes of this section, orphan well means any oil or gas well in the state, including Class II wells, that has not been properly plugged according to the requirements of the statutes, rules and regulations governing same and for which a responsible party such as an owner or operator cannot be located or for which, for whatever reason, there is no other party that can be forced to plug the well.

(8) Upon request of the State Oil and Gas Supervisor and subject to the limitations set forth in Section 27-103-303(4), the Director of the Department of Finance and Administration may transfer funds from the Capital Expense Fund to the State Oil and Gas Board for the emergency plugging of any oil or gas well, including any Class II well, in the state that has been determined by the board to represent an imminent threat to the environment and that has been determined by the board to be an "orphan" well. This subsection (8) shall stand repealed from and after July 1, 2021.

HISTORY: Codes, 1942, § 6132-43; Laws, 1948, ch. 318, § 3; Reenacted without change, Laws, 1982, ch. 485, § 28; Reenacted, Laws, 1990, ch. 357, § 28; Reenacted without change, Laws, 1991, ch. 340, § 28; Laws, 1991, ch. 344 § 2; Laws, 2016, ch. 459, § 37; Laws, 2017, 1st Ex Sess, ch. 7, § 25, eff from and after passage (approved June 23, 2017); Laws, 2019, ch. 474, § 3, eff from and after passage (approved April 16, 2019).

Amendment Notes — The 2017 1st Extraordinary Session amendment, effective June 23, 2017, deleted "held in trust" following "shall be" in the first sentence of (2); and in (8), inserted the exception near the beginning, and added "and as determined by the State Fiscal Officer" at the end.

The 2019 amendment, effective April 16, 2019, in (2), inserted "held in trust" in the first sentence, and substituted "State Fiscal Officer" for "State Auditor"; added (8); deleted former (8) and (9), which read: "(8) From and after July 1, 2016, the expenses of this agency, except for emergency plugging of orphaned wells which shall be paid from the Capital Expense Fund, shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law and as determined by the

State Fiscal Officer. (9) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section"; and made minor stylistic changes.

CHAPTER 3.

DEVELOPMENT, PRODUCTION AND DISTRIBUTION OF GAS AND OIL

In General. 53-3-1

IN GENERAL

Sec.
53-3-13. Permit fee; disposition of fees.

§ 53-3-7. Integration of interests; pooling agreements and orders.

JUDICIAL DECISIONS

2. Pooling agreements—In general.

4. —Forced pooling.

State Oil and Gas Board's force-integration order was supported by substantial evidence given the extensive evidence as to the objectionable terms and common industry practices. Tellus Operating Group, LLC v. Maxwell Energy, Inc., 156 So. 3d 255, 2015 Miss. LEXIS 40 (Miss. 2015).

Miss. Code Ann. § 53-3-7(2)(g)(iii) (Rev. 2003) is intended to provide certainty of the reasonable terms to which the parties are bound as the unit(s) are developed. Tellus Operating Group, LLC v. Maxwell Energy, Inc., 156 So. 3d 255, 2015 Miss. LEXIS 40 (Miss. 2015).

When Miss. Code Ann. § 53-3-7(2)(a) and (g)(iii) (Rev. 2003) are read together, § 53-3-7(2)(g)(iii) requires a non consenting owner, after a pooling order, to enter into a written agreement to what the State Oil and Gas Board finds to be reasonable terms, or enter into such other written agreement as the parties may contract. Tellus Operating Group, LLC v. Maxwell Energy, Inc., 156 So. 3d 255, 2015 Miss. LEXIS 40 (Miss. 2015).

§ 53-3-13. Permit fee; disposition of fees.

(1) Any person securing a permit to drill a well in search of oil or gas under the provisions of Section 53-3-11 shall pay to the Oil and Gas Supervisor a fee of Six Hundred Dollars ($600.00) upon and for the issuance of the permit. A lesser sum may be paid if the State Oil and Gas Board shall adopt a rule fixing the amount to be paid at a sum less than Six Hundred Dollars ($600.00). Any such permit, when issued and the fee paid thereon, shall be good for a period of one (1) year from the date thereof; and in the event drilling has commenced within one (1) year, the permit shall be good for the life of the well commenced, unless during the course of drilling or production the operator is changed. In the event a change of operators from that listed in the drilling permit is desired, the operator listed and the proposed new operator shall

apply to the State Oil and Gas Board for authority to change operators on forms to be prescribed by order of the State Oil and Gas Board. The fee for such change of operators shall be One Hundred Dollars ($100.00) per change, or some lesser sum as may be fixed by order of the board.

(2) The State Oil and Gas Supervisor, as ex officio Secretary of the State Oil and Gas Board, shall remit to the State Treasurer all monies collected by reason of the assessments made, fixed and authorized under the provisions of subsection (1) of this section, and the State Treasurer shall deposit all such monies in a special fund known as the "Oil and Gas Conservation Fund."

HISTORY: Codes, 1942, § 6132-30; Laws, 1948, ch. 319, §§ 1, 2; Laws, 1966, ch. 280, § 1; Laws, 1977, ch. 487; Laws, 1978, ch. 520, § 14; Laws, 1982, ch. 485, § 31; Laws, 2007, ch. 363, § 1; Laws, 2016, ch. 459, § 41, eff from and after July 1, 2016; Laws, 2019, ch. 474, § 4, eff from and after passage (approved April 16, 2019).

Amendment Notes — The 2019 amendment, effective April 16, 2019, deleted (3) and (4), which read: "(3) From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

"(4) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section."

CHAPTER 9.

SURFACE COAL MINING AND RECLAMATION OF LAND

MISSISSIPPI SURFACE COAL MINING AND RECLAMATION LAW

§ 53-9-33. Surface coal mining and reclamation permit; requisites for approval of application for permit; schedule of notices of violation; permit to mine on prime farmland; restriction on transfer of rights; modification of permit provisions.

JUDICIAL DECISIONS

1. Right to mine coal.

Families alleging ownership of lignite under the surface of land owned by a power company were not entitled to summary judgment granting a right to mine the lignite because the families (1) had no conveyance expressly granting or reserving such a right, and (2) did not have the express written consent of the power company. Barham v. Miss. Power Co., 266 So. 3d 994, 2019 Miss. LEXIS 129 (Miss. 2019).

CHAPTER 11.

MISSISSIPPI GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE ACT

Sec.
53-11-23. Fees; creation of Carbon Dioxide Storage Fund; funding of agency expenses; deposit of monies into State General Fund.

§ 53-11-23. Fees; creation of Carbon Dioxide Storage Fund; funding of agency expenses; deposit of monies into State General Fund.

(1)(a) The board is authorized to adopt regulations within its jurisdiction to assess sequestration fees that shall be subject to the approval of the Legislature.

(b) Any monies collected shall be used exclusively: (i) to pay the expenses and other costs connected with administration and enforcement of this chapter and the rules, regulations and orders of the board pursuant to this chapter; and (ii) to fund the Carbon Dioxide Storage Fund established in this chapter.

(c) Any per-ton fee shall first be applied to the administration and enforcement costs of the board's activities required or authorized by this chapter, and any amount exceeding those costs shall be transferred to a separate special fund of the State Oil and Gas Board which is hereby created and is to be known as the Carbon Dioxide Storage Fund.

(d) Transfers to the Carbon Dioxide Storage Fund from the per-ton fees shall be made monthly. Transfers from excess funds collected under subsection (1)(c) of this section may be made at any time in the fiscal year that the board shall determine appropriate. At the beginning of the following fiscal year after the transfer of the excess funds, the rate or rates to be collected under subsection (1)(c) of this section shall be reduced to reflect the excess from the prior year.

(e) When the balance in the Carbon Dioxide Storage Fund reaches or exceeds Two Million Five Hundred Thousand Dollars ($2,500,000.00) per geologic sequestration facility, the board shall abate the per-ton fee, and may adjust the annual regulatory fee as prescribed herein. The abatement shall be effective at the beginning of the ensuing fiscal year. When the Carbon Dioxide Storage Fund is reduced below Two Million Five Hundred Thousand Dollars ($2,500,000.00) per geologic sequestration facility, the per-ton fee shall again be imposed on all geologic storage operators until such time as the fund shall reach or exceed Two Million Five Hundred Thousand Dollars ($2,500,000.00) per geologic sequestration facility. The imposition of the per-ton fee shall be effective at the beginning of the ensuing fiscal year.

(f) Monies in the Carbon Dioxide Storage Fund created in this chapter may be used in the board's discretion but only if inadequate funds are available from responsible parties including the financial assurance funds

provided in Section 53-11-27(2). Monies in the Carbon Dioxide Storage Fund shall only be used for oversight of geologic storage facilities after cessation of injection at the facility and release of the facility's performance bond or other assurance of performance and as shall be necessary or appropriate to satisfy the requirements of the federal Safe Drinking Water Act, including, without limitation, matters with respect to closed facilities such as: (i) inspecting, testing and monitoring of the facility, including remaining surface facilities and wells; (ii) repairing mechanical problems associated with remaining wells and surface infrastructure; and (iii) repairing mechanical leaks at the facility.

(g) The Carbon Dioxide Storage Fund shall be used for the purposes set forth in this chapter and for no other governmental purposes, nor shall any portion of the fund ever be available to borrow from by any branch of government, it being the intent of the Legislature that this fund and its increments shall remain intact and inviolate. Any interest earned on monies in this fund shall remain in this fund and shall not lapse into the General Fund.

(2) To facilitate the proper administration of the Class VI underground injection control program within its jurisdiction, the commission is authorized to assess and collect fees from Class VI permit applicants for Class VI underground injection control wells permitted by the permit board. The commission is further authorized to promulgate rules and regulations for the assessment and collection of permit fees for Class VI underground injection control wells within its jurisdiction.

HISTORY: Laws, 2011, ch. 437, § 12; Laws, 2016, ch. 459, § 38, eff from and after July 1, 2016; Laws, 2019, ch. 474, § 5, eff from and after passage (approved April 16, 2019).

Amendment Notes — The 2019 amendment, effective April 16, 2019, deleted (3) and (4), which read: "(3) From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

"(4) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section."